FARAD CONTINUATION SHEET

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 721 OF 2003

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's order
	Shri Dnyaneshwar Deshmukh, advocate for the Appellants. Shri A.N. Helekar, advocate for the Respondents.
	CORAM: A.S. OKA, J.
	12th August, 2004.
	P.C.:
	1. Heard learned counsel appearing for parties.
	2. The Appellant is the father of the Respondent No.2. The Respondent No.2 purported to execute a sale deed in respect of the suit property in favour of Respondent No.1. In a suit filed by the Appellant,the Trial Court recorded a finding that the suit land is an ancestral property belonging to the family of Appellant and the Respondent No.2. The Trial Court held that the

Appellant has failed to prove that the sale deed executed by Respondent No.2 in favour of Respondent No.1 is bogus and without consideration. The Trial Court also held that the Respondent No.1 has failed to prove that the Respondent No.2 sold the entire suit land for legal necessity. Therefore the Trial Court decreed the suit and granted perpetual injunction against Respondent No.1. purchaser. The Respondent NO.1 challenged the decree of the Trial Court by preferring an Appeal. In the said Appeal, cross objection was filed by Appellant-Plaintiff. The Learned Additional District Judge dismissed both the Appeal and cross objection.

3. Learned Counsel appearing for the Appellant submitted that once it was found that there was no legal necessity for selling the suit land, declaration ought to have been granted by the Courts below.

4. The Trial Court has found that the suit land was ancestral

property of the parties. The finding is recorded on the basis of contention raised by Appellant that the suit land was an ancestral property and not the exclusive property of Respondent No.2. In view of the said finding, the Respondent No.2 will have undivided share in the property. Therefore, even after finding on the issue of legal necessity is recorded against Respondent No.1, no fault can be found if declaration as regards sale deed is not granted. No substantial question of law arises. No orders as to costs.

. C.C. expedited.

Sd/-

JUDGE